

From: Justin Miller
To: Microsoft ATR
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Subject: Microsoft Settlement

To: Renata B. Hesse
Antitrust Division
U.S. Department of Justice
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Under the Tunney Act, I would like to comment on the proposed Microsoft settlement.

As a computer professional involved with the industry for the last 15 years, I can only express my dismay at the proposed Microsoft anti-trust settlement. I have watched for the last 15 years as Microsoft has relentlessly used its monopoly power to squash all possible competition, through such means as purposefully introducing incompatibilities with competing products, inadequately documenting API's, not providing enough advanced notice to outside developers of changes in the API's such that they could modify their products to work properly on new OS versions, product dumping, and forcing illegal, anti-competitive distribution agreements on distributors, among many other tactics.

The remedy proposed by the Justice Department will not stop any of these practices. Through overly narrow, ridiculous definitions of terms like 'API'; the allowance of Enterprise licensing agreements similar to OEM licenses banned by the 1994 consent decree; the failure of the agreement to prohibit purposefully introduced incompatibilities; the failure of the agreement to require timely dissemination (i.e., months prior to release of betas) of technical documentation such that it can be ensured competing products work on new OS versions; the failure of the agreement to make allowances for open source and third-party Windows-compatible operating systems (which, under current Microsoft End-User license agreements, may not be used in conjunction with Windows systems or run Microsoft software in any way); inadequate protections against anti-competitive distribution agreements with OEM's and distributors; and, finally, the lack of any effective enforcement mechanisms, the proposed agreement will be yet another feather in Microsoft's hat. By no means is the remedy one that will "unfetter a market from anticompetitive conduct" or "terminate the illegal monopoly, deny to the defendant the fruits of its statutory violation, and ensure that there remain no practices likely to result in monopolization in the future."

As a concerned citizen I would ask that the proposed remedy be reconsidered and a more stringent and effective remedy be designed. One might ask, 'Has Microsoft's monopoly hurt the public interest?' The unequivocal answer I

must give is "Yes!" Many superior, better-designed, more reliable products have been released and fallen by the wayside over the years, as Microsoft has shut their makers out of the market. The next time Word crashes and you lose your document, the next time the computer eats your spreadsheet, please keep in mind that Linux and Sun's Solaris operating systems have built their reputations by going multiple YEARS between crashes, and that many people run text editors like GNU Emacs continuously for months at a time without a crash, and have never had a lost document. The reliability issues most Windows users experience has nothing to do with inherent complexity, and everything to do with shoddy software engineering. Competition in a fair marketplace is the key to improving quality, regardless of who in the end makes the software.

Sincerely,

Justin Miller
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